

### **REMARKS**

The Office Action of September 17, 2007 has been reviewed and the Examiner's comments carefully considered. Original claims 1-24 were previously cancelled in the present application and claims 25-47 were added via a Preliminary Amendment. Thus, claims 25-47 are currently pending in this application and claim 25 is in independent form.

#### **Priority German Patent Application No. 102 61 804.6**

The present application is the United States national phase of PCT application PCT/EP2003/014454, filed December 18, 2003, which claims priority to German application 102 61 804.6, filed December 19, 2002. Applicants submit herewith a verified, English-language translation of priority German Patent Application No. 102 61 804.6. With this submission, Applicants have now perfected the priority date of the present application to December 19, 2002, the filing date of the priority German application.

#### **Claim Rejections**

Claims 25-27, 29, 31-32, 34-35, 37-47 stand rejected under 35 U.S.C. §§102/103, as being allegedly anticipated by or, in the alternative, rendered allegedly obvious by WO 03/106558 to Rätzsch et al (hereinafter, "the Rätzsch PCT Publication"), cited with equivalent U.S. Patent Application Publication No. 2006/0100317 (hereinafter "the Rätzsch U.S. Publication"). Further, claims 28, 30 and 36 stand rejected under 35 U.S.C. §103(a) for asserted obviousness by the Rätzsch PCT Publication in view of U.S. Patent No. 2,473,463 to Adams (hereinafter, "the Adams patent"). However, upon review of both of the Rätzsch publications, neither are believed to be prior art to the present application.

The Rätzsch PCT Publication is an improper 102(e) reference. In order for such a reference to qualify as prior art under 35 U.S.C. §102(e), the International Application must designate the United States and have been published in English (see MPEP §706.02(f)(1)). Although the Rätzsch PCT Publication is a WIPO publication of a PCT application filed on or after November 29, 2000 that designated the United States, the reference was not published under PCT Article 21(2) in English. Thus, its prior art date is December 24, 2003, its publication date. Further, the Rätzsch U.S. Publication qualifies as prior art on May 11, 2006, its publication date. The present application currently has a priority date of December 19, 2002, the filing date of the German priority application. This date is before the prior art date of both of the Rätzsch publications. Accordingly, both of the Rätzsch publications should be removed as prior art to the present application. As such, all of

Application No. 10/539,789  
Paper Dated December 17, 2007  
In Reply to USPTO Correspondence of September 17, 2007  
Attorney Docket No. 4385-051182

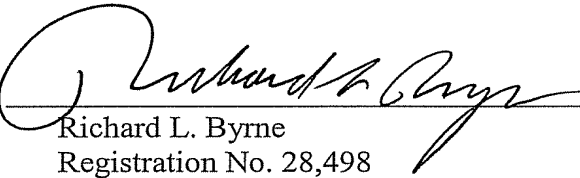
the foregoing claim rejections relying upon the Rätzsch PCT Publication and/or the Rätzsch U.S. Publication are moot and should be withdrawn.

**CONCLUSION**

In view of the remarks contained herein, removal of the rejections and allowance of claims 25-47 are respectfully requested.

Respectfully submitted,

THE WEBB LAW FIRM

By   
Richard L. Byrne  
Registration No. 28,498  
Attorney for Applicants  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219  
Telephone: 412-471-8815  
Facsimile: 412-471-4094  
E-mail: webblaw@webblaw.com